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REMARKS

By this paper, Applicant has amended Claims 1, 3, 4, 10, 16, 24, 26-27, 31, 37-41, 43 and 45. Applicant submits that the application as filed supports the amendments and that no new subject matter is thereby added. For example, with respect to Claims 1 and 31, support is found, amongst other places, in the specification at paragraphs 28 and 59. With respect to Claim 10, support is found, amongst other places, in the abstract. With respect to Claim 24, support is found, amongst other places, in the specification at paragraph 69. With respect to Claim 37, support is found, amongst other places, in the specification at paragraph 48. With respect to Claim 41, support is found, amongst other places, in the specification at paragraph 58. With respect to Claims 43 and 45, support is found, amongst other places, in the specification at paragraph 45. The balance of the amendments were made for clarity or to correct typographical error. Hence, Claims 1-47 are pending and are presented for further consideration.

I. Rejection of Claims 1-30 and 41-42 under 35 U.S.C. § 112, Second Paragraph

In paragraph 4 of the Office Action, the Examiner rejected Claims 1-30 and 41-42 as being indefinite. Applicant notes that the Examiner specifically rejected Claim 1 for reciting the limitation "the trigger information" with insufficient antecedent basis. Applicant assumes that the Examiner was referring to Claim 3 as Claim 1 does not recite that limitation. The claims have been amended in accordance with the Examiner's comments. Applicant submits that the claims, as presently presented, satisfy the requirements of the second paragraph of 35 U.S.C. § 112. As such, Applicant requests that the Examiner withdraw the rejections of Claims 1-30 and 41-42 under 35 U.S.C. § 112.

II. Rejection of Claims 37-40 and 45 under 35 U.S.C. § 101

In paragraph 6 of the Office Action, the Examiner rejected Claims 37-40 and 45 as being directed to non-statutory subject matter. Claims 37-40 and 45 have been amended in accordance with the Examiner's comments. Applicant submits the claims, as presently presented, satisfy the requirements of 35 U.S.C. § 101. As such, Applicant requests that the Examiner withdraw the rejection of Claims 37-40 and 45 under 35 U.S.C. § 101.

III. Rejection of Claims 1-47 under 35 U.S.C. § 102(e)

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In paragraph 8 of the Office Action, the Examiner rejected Claims 1-47 under U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,114,150 to Dimpsey et al. (the '150 patent). Applicant respectfully submits that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *See* M.P.E.P. § 2131. For the reasons set forth below, Applicant respectfully submits that Claims 1-47 are allowable over the '150 patent.

A. The '150 Patent Fails to Disclose all the Limitations of Independent Claim 1

Applicant respectfully submits that the '150 patent fails to teach or render obvious, "a program ... configured for native execution on a first processor; and interpreting ... the program on a second processor" as recited by Claim 1, as amended. The '150 patent discloses interpreting a java program using a Java Virtual Machine running on a host processor. However, the '150 patent fails to disclose that the java code itself is natively executable on a separate processor. Thus, the '150 patent fails to disclose "a program ... configured for native execution on a first processor; and interpreting ... the program on a second processor" as recited by Claim 1, as amended. As the '150 patent fails to teach or render obvious all limitations of Claim 1, Applicant submits that Claim 1 is allowable over the '150 patent.

B. The '150 Patent Fails to Disclose all the Limitations of Independent Claims 10 and 37

Applicant respectfully submits that the '150 patent fails to teach or render obvious that, "the analysis binary program is invoked by the interpreter" as recited by Claim 10, as amended. The '150 patent discloses inserting hooks into code. The hooks are segments of code that, when executed, pass execution control to a handler. Alternatively, the hooks comprise code that transmits information to a trace program (See column 8, lines 35-45). In either case, it is the hooks, and not the interpreter, that effectuate interaction with the trace program. Thus, the '150 patent fails to teach that, "the analysis binary program is invoked by the interpreter" as recited by Claim 10, as amended. As the '150 patent fails to teach or render obvious all limitations of Claim 10, Applicant submits that Claim 10 is allowable over the '150 patent.

Similarly, Claim 37 recites that, "analysis code is invoked by an interpreter." Applicant submits that Claim 37 is allowable at least for the same reasons.

C. The '150 Patent Fails to Disclose all the Limitations of Independent Claim 24

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Applicant respectfully submits that the '150 patent fails to teach or render obvious that, "upon encountering a selected construct in the program, a condition is processed and the binary code is conditionally invoked" as recited by Claim 24, as amended. The '150 patent teaches determining a hot spot in the code and inserting hooks into the methods that call the hot spot method. These hooks are executed unconditionally for a set period of time or executed a set number of times. The hooks are then removed from the code. Thus, the '150 patent fails to disclose that, "upon encountering a selected construct in the program, a condition is processed and the binary code is conditionally invoked" as recited by Claim 24, as amended. As the '150 patent fails to teach or render obvious all limitations of Claim 24, Applicant submits that Claim 24 is allowable over the '150 patent.

D. The '150 Patent Fails to Disclose all the Limitations of Independent Claim 31

Applicant respectfully submits that the '150 patent fails to teach or render obvious, "executing the binary program, including the trigger instruction, natively on the second processor" as recited by Claim 31, as amended. The '150 patent provides for minimizing the computational impact of profiling a java program by minimizing the number of hooks that are present in the code at any given time. Accordingly, the '150 teaches removing the hooks after sufficient information has been gathered. Further, the interpretable java programs of the '150 patent are not natively executable. Thus, the '150 patent fails to disclose, "executing the binary program, including the trigger instruction, natively on the second processor" as recited by Claim 31, as amended. As the '150 patent fails to teach or render obvious all limitations of Claim 31, Applicant submits that Claim 31 is allowable over the '150 patent.

E. The '150 Patent Fails to Disclose all the Limitations of Independent Claims 41 and 47

Applicant respectfully submits that the '150 patent fails to teach or render obvious, "modifying the program to include trigger information that identifies at least one trigger" as recited by Claim 41. The '150 patent teaches inserting hooks that comprise instructions to be executed. These hooks are executed in the normal flow of program. The '150 patent does not teach adding information to the program that identifies the hooks. Thus, the '150 patent fails to disclose, "modifying the program to include trigger information that identifies at least one

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trigger” as recited by Claim 41. As the ‘150 patent fails to teach or render obvious all limitations of Claim 31, Applicant submits that Claim 41 is allowable over the ‘150 patent.

Similarly, Claim 47 recites, “storing the identified trigger location in a data section of the binary program.” Applicant submits that Claim 47 is allowable for at least the same reasons.

F. The ‘150 Patent Fails to disclose all the Limitations of Independent Claim 43 and 45

Applicant respectfully submits that the ‘150 patent fails to teach or render obvious that, “the means for interpreting transmits gathered trace information to the means for analyzing upon encountering a no-op instruction in the binary program” as recited by Claim 45, as amended. The ‘150 patent teaches using executable instructions for hooks that pass control or data to other processes. Thus, the ‘150 patent fails to disclose that, “the means for interpreting transmits gathered trace information to the means for analyzing upon encountering a no-op instruction in the binary program” as recited by Claim 45, as amended. As the ‘150 patent fails to teach or render obvious all limitations of Claim 31, Applicant submits that Claim 45 is allowable over the ‘150 patent.

Similarly, Claim 43, as amended, recites, “designating at least one no-op instruction as a trigger in the original code.” Applicant submits that Claim 43 is allowable for at least the same reasons.

G. The ‘150 Patent Fails to disclose all the Limitations of Independent Claim 46

Applicant respectfully submits that the ‘150 patent fails to teach or render obvious, “storing the identified trigger location in a file that is separate from the binary program” as recited by Claim 46. The ‘150 patent teaches using hooks that generate trace records. These trace records may be stored to a file. However, the ‘150 patent does not teach storing the hook locations to a file. Thus the ‘150 patent fails to disclose, “storing the identified trigger location in a file that is separate from the binary program” as recited by Claim 46. As the ‘150 patent fails to teach or render obvious all limitations of Claim 31, Applicant submits that Claim 46 is allowable over the ‘150 patent.

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As the balance of the claims depend upon the previously discussed independent claims, Applicant submits that each of the dependent claims is allowable for at least the same reasons.

V. Conclusion

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.


In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that can be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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